

**09-1227 BOND V. UNITED STATES**

DECISION BELOW: 581 F.3d 128

LOWER COURT CASE NUMBER: 08-2677

**QUESTION PRESENTED:**

Petitioner admitted that she tried to injure her husband's paramour by spreading toxic chemicals on the woman's car and mailbox. Instead of allowing local officials to handle this domestic dispute, the federal prosecutor indicted petitioner under a federal law, 18 U.S.C. § 229(a), enacted by Congress to implement the United States' obligations under a 1993 treaty addressing the proliferation of chemical and biological weapons. Facing a sentence of six years in prison, petitioner challenged the statute and her resulting conviction as exceeding the federal government's enumerated powers and impermissible under the Tenth Amendment. Declining to reach petitioner's constitutional arguments, and in acknowledged conflict with decisions from other courts of appeals, the Third Circuit held that, when the state and its officers are not party to the proceedings, a private party has no standing to challenge the federal statute under which she is convicted as in excess of Congress's enumerated powers and in violation of the Tenth Amendment.

The question presented is:

Whether a criminal defendant convicted under a federal statute has standing to challenge her conviction on grounds that, as applied to her, the statute is beyond the federal government's enumerated powers and inconsistent with the Tenth Amendment.

ORDER OF NOVEMBER 10, 2010

STEPHEN R. MCALLISTER, ESQUIRE, OF LAWRENCE, KANSAS, IS INVITED TO BRIEF AND ARGUE THIS CASE, AS *AMICUS CURIAE*, IN SUPPORT OF THE JUDGMENT.

CERT. GRANTED 10/12/2010